

AN ACT

ENTITLED, An Act to provide for a preference for placement of abused and neglected children with relatives and to provide a hearing for review of adoptive placement decisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 26-7A-19 be amended to read as follows:

26-7A-19. If the child is an apparent, alleged, or adjudicated abused or neglected child, after the temporary custody hearing the court may:

- (1) Order the release of the child from temporary custody, either with or without restriction or condition or upon written promise of the child's parents, guardian, or custodian regarding the care and protection of the child; or
- (2) Continue the temporary custody of the child under the terms and conditions for duration and placement that the court requires, including placement of temporary custody of the child with the Department of Social Services, in foster care or shelter. The court and the Department of Social Services shall give placement preference to a relative or custodian who is available and who has been determined by the department to be qualified, provided that placement with the relative or custodian is in the best interest of the child. If temporary custody of the child is continued by the court, the court may provide for visitation of the child by the child's parents, guardian, custodian, or family members in keeping with the best interests of the child. If the child is in temporary custody of the Department of Social Services and has not been adjudicated as an abused or neglected child, the court shall review the child's temporary custody placement at least once every sixty days.

As used in this section, the term, relative, means an adult who is related to the child by blood, adoption, or marriage, and who is the child's grandparent, aunt, uncle, sibling, brother-in-law, sister-

in-law, niece, nephew, great grandparent, great uncle, great aunt, first cousin, second cousin, stepparent, or stepsibling.

As used in this section, the term, custodian, means an adult who is the biological parent, adoptive parent, or guardian of the child's sibling or half-sibling.

Section 2. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as follows:

Subsequent to a temporary custody hearing, if a placement is made of an apparent, alleged, or adjudicated abused or neglected child, placement preference shall be given to a relative entitled to placement under § 26-7A-19.

Section 3. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as follows:

Except under circumstances where placement was with another relative of the child, any relative who has been denied adoptive placement by the Department of Social Services may request a hearing to determine if the placement was an abuse of discretion. The request shall be filed with the circuit court having jurisdiction pursuant to § 26-8A-29 and shall be filed within thirty days of written notification from the department by regular mail to the relative's last known address. The hearing shall be held within thirty days of the filing of the request for hearing and may be continued for not more than thirty days upon good cause shown. The relative shall be granted limited intervention only for the purpose of the placement review hearing.

No intervention may be allowed in a proceeding involving an apparent, alleged, or adjudicated abused or neglected child, including an adoption or guardianship proceeding for a child placed in the custody of the Department of Social Services pursuant to § 26-8A-27, except as provided by this chapter and under the Indian Child Welfare Act, (25 U.S.C. 1901 to 1963, inclusive), as amended to January 1, 2005.

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I certify that the attached Act
originated in the

SENATE as Bill No. 55

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 55
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State